FOR MYSORE STATE

Secta. II-27—100,000—21-5-48.

Finance. **(1948) Department.**

Ms **SERIES.**

G.O. No. 443

443

Dated 3 - 5 - 48

[Despatch Abstract.]

F. Rs. Instructions under F.R 44 A and 48 B. Govt of India's letter Recorded.

No.223-L.R.P. (11)/48.
Government of India,
Ministry of Industry and supply.
New Delhi, the 10th March 48.

To

All Provincial Governments.

Subject: General Instructions for regulating the grant of permission for the taking out of patents by Government servants whose duties involve the carrying out of scientific or technical research.

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I am directed to forwared a copy of the revised instructions on the above subject which the Government of India have adopted in supersession of those forwarded with the late industries and Labour Deptts' letter No: A-418, dated the 20th March, 1934 (copy enclosed).

I am et.,
A.R.Kapur.
Asst.Secretary to Govt. of India.

Copy fowarded to all Ministries of the Government of India for guidance.
Copy also forwarded for information to the C.S.I.R. and to all organisations under the Ministry of Industry and Supply.

(True copy)

No:A.- 418.
GOVERNMENT OF INDIA
DEPARTMENT OF INDUSTRIES AND LABOUR
.....

From

Rai Bahadur S.K.Banerjee,
Assistant Secretary to the Government Of India.

To

All Local Governments and Administrations.
New Delhi, the 20th March, 1934.

Subject: General Instructions for regulating the grant of permission for the taking out of patents by Government servants whose duties involve the carrying of scientific or technical research.

Sir,

I am directed to invite attention to the notification issued by the Government of India in the Finance Department No:F.-11(21)-R.I./33, dated the 1st November 1933, introducing Fundamental Rules 48-A and 48-B (and to the concluding sentence of this Department's letter No.A.418 dated the 21st August 1933). The Government of India have now formulated the general instructions contained in the annexure to this letter which will regulate the grant of permission for the taking out of patents by Government servants under their control whose duties involve the carrying out scientific or technical research. (I am to suggest that the local Governments might take similar action in respect of Government servants under thier administrative control) (You will doubtless consider whether it is necessary to frame similar rules applicable to Government servants of subordinate services under your control.)

I have the honour to be
Sir
Your most obedient Servant.
Asst. Secretary to Govt. of India.

General Instructions for regulating the grant of permission for the taking out of patents by Government servants whose duties involve the carrying out of scientific or technical research.

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1. Application for permission under Rule 48-A of the Fundamental Rules should be made by the Government servant making an invention to the head of his department or if he is himself the head of the department.

2. The head of the department should deal with the application confidentially and with expedition so that the inventor may not be prejudiced by delay in making his application at the Patent Office, and should forward it with his recommendations to the Government.

3. Permission may be granted by the Government to the applicant without any restriction if the invention has no connection with the Government servant's official duties and has not resulted from facilities provided at Government expense.

4. If the invention is made in the course of the Government servant's official duties or has resulted from facilities provided at Government expense, then-

(a) If the invention is of such general interest and utility that the public interest will be best served by allowing the public a free use of the invention, the application for taking out a patent should be refused and the invention should be publisned. An ex gratia payment should ordinarily be made to the inventor as a reward in all such cases;

(b) if the invention is not of the kind mentioned in (a) but is of sufficient public utility as is likely to make its commercial exploitation profitable the inventor should be directed to take out a patent and to assign his rights under the patent to the Governor Genreral vide I/C.S.Deptt.letter No: 223-IR(16)/44 dated 23.4.1944 in Council. In all such cases, the inventor should be rewarded either by a suitable ~~cases~~ lump sum payment or by a liberal percentage of the profits made by Government in connection with the invention:

(c) in other cases, the inventor should be allowed to take out a patent for his own benefit subject to his undertaking to permit government the use of the invention either without payment or on such ~~the~~ terms as they may consider reasonable.

5. When the invention has been assigned to the Governor General in Council under paragraph 4(b) above, the Government may exploit the patent themselves or

(a) advertise the patent and grant licenses on payment to manufacturers; or

(b) sell the rights under the patent to a firm or to a private person.

6. In order to secure reasonable uniformity of practice and to secure for government the full benefits of inventions the Controller of Patents and Designs should ordinarily be consulted before any awards are made under clauses (a), (b) and (c) of paragraph 4 above or ~~set~~ steps are taken ~~for~~ for the exploitation of the patents under paragraph 5 above.

INSTRUCTIONS FOR REGULATING THE PATENTING OF INVENTIONS MADE BY GOVERNMENT SERVANTS WHOSE DUTIES INVOLVE THE CARRYING OUT OF SCIENTIFIC OR TECHNICAL RESEARCH.

1. In these Instructions:-

(1) "Committee" means the Patents Advisory Committee.

(2) "Inventor" means any Government whose duties involve carrying out of scientific or Technical Research.

(3) "Ministry" means that Ministry of Central Government incharge of any Research Organisation.

(4) "Research Organisation" means any technical or scientific establishment under the Central Government where research work is carried out, and includes also an establishment where research work is carried out in addition to any other routine work.

(5) "Secretary" means Secretary of the Patents Advisory Committee.

2. An inventor should not, without the previous permission of the Central Government, employ a Patent A ent or disclose the invention to any person otherwise than as provided in clause 4 or publish or join any person not connected with the invention in his application for a patent, or file a Complete Specification, or make any application for a patent in any Indian State or any other country.

Until the Patents Advisory Committee makes a decision under clause 19 the particulars about any invention disclosed by an inventor should be treated as confidential and deemed to belong to and held in trust for the Government.

3. Every inventor should, if so ordered, do everything necessary for obtaining a patent whether in Indian Dominion or any other country under such conditions as may be prescribed by the Government.

4. Every inventor who evolves an invention should promtly disclose it to the Head of the Research Organisation where he is working.

5. Where an inventor discloses his invention to the Head of his research Orgainsation, with or without a request for permission to file an application for a patent accompanied by a Provisional Specification, the Head of the Research Organisation should, through a secret communication, forward the information to the Ministry concerned together with his remarks on:-

(i) the connection, if any, between the invention and the inventor's official duties;

(ii) the extent to which the inventor has used the facilities provided at Government expenses;

(iii) whether the results are of such a nature that they should be published instead of being patented;

(iv) patenting the invention in foreign countries;

(v) the estimated needs of the Ministry concerned and the Government as a whole;

(vi) the probable contribution to public welfare; and

(vii) his recommendations, if any, as to further actioon deemed appropriate.

P.T.O.

6. An inventor paid out of the Defence Services Estimates of the Central Government should not apply for or obtain a patent except as provided for in the special regulations prescribed by the Ministry of Defence for that purpose from time to time.

7. An inventor other than an inventor paid out of the Defence Services Estimates, may file an application for a pa patent accompanied by a Provisional Specification after obtaining the permission of the Head of the Research Organisation where he is working:

Provided that, in case the inventor is himself the Head of a Research Organisation, he may file such application without obtaining previous permission of the Central Government.

8. The Central Government hereby authorises the Head of every Research Organisation to grant, in his discretion, to any inventor working under him, permissinn under F.R. 48A to file an application for a patnent accompanied by a Provisional Specification;

Provided that, where the Heat of a Research Organisation does not deem it fit to grant the permission, for instance, where the invention is likely to have utility for Defence purposes or for the Ministry concerned, he should forward the papers to the Ministry concerned, together with his remarks.

9. Where an inventor desires to obtain permission in accordance with clause 7, his request to the Head of his Organisation should be made on the prescribed form, shown in Appendix A, which should be filed in quadruplicate.

10. If the Head of a Research Organisation decides to grant the permission, he should sign all the four copies of the forms, return one copy to the inventor, retain one copy and forward the remaining two copies along with two copies of the Provisional Specification to the Ministry concerned.

11. If the request for permission is accompanied by a complete specification (which should be in duplicate) the Head of the Research Organisation should, through a secret communication, forward the papers to the Ministry concerned, together with his remarks on points referred to under sub-paragraphs (i) to (vii) in clause 5.

12. Upon receipt of a communication of an invention from the Head of the Research Organisationthe Ministry concerned should examine the case. If they consider that the results proposed to be patented are of such a nature that they should be published instead of being patented, they will refuse the inventor's request for permission to take out a patent. The Ministry may take such steps as they consider expedient for publishing the invention, or for otherwise disposing of the invention. On receipt of intimation of such refusal, the inventor shall abandon his application for patent, if any, filed on the basis of a Provisional Specification. In all other cases the Ministry concerned should, within 15 days of their receipt of the communication from the research Organisation, forward the papers to the Secretary with their recommendations. While forwarding the papers to the Secretary the following documents should be supplied through a secret communication:-

(i) If the invention was disclosed unaccompanied by a request for permission to take out a patent, full particulars of the invention so disclosed:

P.T.O.

(ii) If an application has been made on the basis of a Provisional Specification, a copy each of the application and the Provisional Specification filed at the Patent office; and

(iii) If a request for permission has been made to take out a patent on the basis of a Complete Specification, a copy of the Complete Specification.

13. Upon receipt of the foregoing communication from the Ministry concerned the Secretary will submit the information for the consideratin of the Committee who will consider whether the permission asked for under F.R. 48A should be granted, with or without conditions.

14. If the Committee is satisfied that the invention has no connection whatever with the inventor's official duties, or does not fall within a technical field of activity of the Ministry concerned, it will, if the inventor has applied for permission to take out a patent, grant him the permission under F.R.48A without any restriction.

15. If the Committee considers that the invention has been made in the course of the inventor's official duties or that the invention has resulted from facilities provided at Government expense, it will decide whether an application for a patent should be made to the Controller of Patents and Designs on the basis of a complete Specification.

16. If the Committee decides that an application for a patent should be made on the basis of a Complete Specification, the Secretary, will, if necessary, obtain from the Inventor further particulars required for the drafting of the complete specification and take the necessary steps to prepare and file the Complete Specification within 9 months from the date of the Provisional Specificatinn, if any. The application will be made in the name of the inventor, on the understanding that he will hold the patant in trust for the Central Government and will, in due course, assign his rights to the Central Government.

17. The Complete Specification and the drawings, if any, required for filing and prosecuting the applications for patents will be prepared by the Research Organisation when facilities exist for such purposes, and in other cases, by the Secretary, or by such agency as may be appointed by the Committee.

18. All fees upto the stage of acceptance, in respect of every application prosecuted by the Secretary, will be borne by the Committee.

19. On filing a Complete Specification the Committee will consider:

(i) Whether the invention should be published for free use by the public; or

(ii) Whether a patent should be taken out for exploitation by the Central Government; or

(iii) Whether the Inventor should be allowed to take out a patent for his own benefit.

20. If the Ministry or the Committee decides that the invention should be published for free use by the public, it will refuse the inventor's request, if any, for permission under F.R.48A and the Secretary will not prosecute the application for patent beyond the stage of its acceptance. In all such cases the Committee on the advice of the Ministry concerned will determine the ex gratia payment, if any, and will advise the Ministry concerned accordingly.

21. If the Committee decides to take out a patent for exploitation, the Secretary, will proceed with the application, and on obtaining a patent, take the necessary steps to get the inventor's rights under the patent assigned to the Central Government.

22. In all cases where the Committee decides to take out patents for exploitation, it will decide also the manner in which the patents should be exploited.

23. Inventions which the Committee considers are of no interest to the Central Government either for commercial exploitation or publication for free use to the public, will be returned to the inventors, if they so desire, and they will be allowed to take out patents for their own benefit subject to:-

(i) the reservation of the right of the Central Government to the use of the invention either without payment or on such terms as the Government may consider reasonable; and

(ii) the condition that the Inventor will not assign or deal with or grant licences to any person without obtaining the prior permission of the Government.

(True copy)

SUPERINTENDENT,
MADRAS RECORD OFFICE,
EGMORE.

BN/

APPENDIX A

Request for permission to file an application for a patent accompanied by a Provisional Specification direct to the Patent Office.

(To be filed in quadruplicate)

I/We hereby request permission to file an application for an Indian patent accompanied by a Provisional Specification in respect of - - -

INVENTOR'S Signature -

Designation -

Date -

My/our address for service in the Dominion of India is - - -

- -

Permission granted.

Signature of the Head of the Ø
Research Organisation. - - - - - - - - - - - - - - - - - - -

Designation -

Date - - - - - - - - - - - - - - - -

Received one copy.

Signature of the inventor (or inventors)

Dated: --- - - - - - - - - - - - - -

(True copy)

Routine Note.

No 31513d - II/48

Development Department

To A.S.

Please see the letter on page 1 c.f. from the Government of India. The G.O. Containing the Government of India's letter referred to at S on page 1 c.f. has been called for from the Madras Record Office. It has not yet been received. This may lie over till the G.O. is received from the Madras Record Office or till 25-3-48, whichever is earlier.

To A.S.

Please see the reply from the Madras Record office at pp.5-6 of (m) with reference to S on page 5 of (m), this may also be sent to Finance for ~~futhere~~ further action.

Finance (C.S.R)

G.O.No. 374 Finance dated 8-6-1934 in which instructions under F.R.S. 48A and 48B which is also the subject referred to in the Government of India letter below has been called for from the Madras Record office. This may ~~be lie sent~~ till 10-4-48 or receipt of the G.O. whichever is earlier.

(True copy)

Subject: F.R.48 A - Government servant to obtain Government's sanction to patents.

Finance (C.S.R)

G.O.No. 374 Finance dated 8-6-1934 since received from the Madras Record office is submitted - flag(n) In that G.O., this Government issued instructions under F.Rs. 48 and 48A on the lines of those issured by the Government of India in the matter of taking out of patents by Government servants whose duties involved the carrying out of scientific or technical research.

2. The Government of India have now issued a set of revised instructions in superstion of those on page 2 of G.O. (n). The revised instructions contain references to various authorityes like "Research Organisation" and "Patant Advisory committee". In this Province, no patent Advisory Committee or Research organisation exists. It seems therefore not feasible to adopt the revised instructions on pp 5-10 c.f. Cases of Government servants applying for patents in this Province are rare, and the Instructions already issued in G.O.(n) will met the requirements of such cases.

No action seems therefore called with reference to the Government of India's letter in c.f.

Development to whom the subject "Inventions, designs etc." is allotted may see for remarks if any before the papers are recorded.

I do not see any necessity for all these rules and definitions. The insturctions and merely to guide Secretariat officers on how to deal with applications for patents when they arise. There is no need for all this red tape. Instead of a committe it is easier and cheaper to deal with each case on the advice of the Departmental Head. The Government of India's letter may be recorded for further reference. There appears no need to amend the G.O.at (n). The place of the Secretary of State, in Council, will automatically be taken by His Excellency the Governor in this matter.

(True copy)

Development Department

To A.S.

Notes of Finance from page 3 above may be perused. No special remarks seem called for. This Department may agree with the view of Finance at A on pp 4-5 above and the file may be returned to that department.

(True copy)

Finance (C.S.R)

Development have agreed to the view of this department at A on pp 4-5 above. The papers may be G.O.443, Finance dated 5-5-48.

Recorded.

(True copy)

SUPERINTENDET,

MADRAS RECORD OFFICE,
EGMORE.

19/5